



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
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Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
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Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
GET CAPTIVE, LLC
FOR
ZION CROSSROADS STP
VPDES Permit No. VA0088706**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and GET Captive, LLC, regarding the Zion Crossroads STP, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft, which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" or "Plant" means the Zion Crossroads STP located at 11445 James Madison Highway, Gordonsville, Louisa County, Virginia 22942, which treats and discharges treated sewage and other municipal wastes, for the two gas station/convenience stores and dialysis center customers of GET Captive, LLC.
10. "GET Captive, LLC" means GET Captive, LLC a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. GET Captive, LLC is a "person" within the meaning of Va. Code § 62.1-44.3.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
13. "O&M" means operations and maintenance.
14. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
15. "Permit" means VPDES Permit No. VA0088706, which was issued under the State Water Control Law and the Regulation to GET Captive, LLC on March 26, 2015. Coverage under the Permit is administratively continued, pending reissuance or notification that GET Captive, LLC is not eligible for permit coverage.
16. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials,

radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.

17. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
18. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
19. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
20. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
21. "Va. Code" means the Code of Virginia (1950), as amended.
22. "VAC" means the Virginia Administrative Code.
23. "VPDES" means Virginia Pollutant Discharge Elimination System.
24. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. GET Captive, LLC owns and operates the Plant. The Permit allows GET Captive, LLC to discharge treated sewage and other municipal wastes from the Plant to an unnamed tributary of Central Branch, in strict compliance with the terms and conditions of the Permit.

2. Central Branch is located in the York River Basin. Central Branch has been neither monitored nor assessed. Camp Creek, approximately 4.9 miles downstream from the Facility Outfall is listed in DEQ's 305(b) report as impaired for recreational use due to bacteria and aquatic life use according to benthic macroinvertebrate impairment.
3. Monthly DMRs were not received on time for the following months: July 2019, August 2019, and September 2019. These DMRs were all received by DEQ-NRO on November 9, 2019.
 - a. Part II.C.1 of the Permit states, "The permittee shall submit the results of the monitoring required by this permit not later than the 10th of the month after monitoring takes place..."
4. GET Captive, LLC indicated on October 2, 2019, that it believed the missing DMRs were an administrative oversight following a transition in operations at the plant to a contracting company in 2019.
5. In submitting its DMRs, as required by the Permit, GET Captive, LLC has indicated that it exceeded discharge limitations or failed to meet the minimum requirements contained in Part I.A.2 of the Permit, for the following parameters, for the associated months:
 - a. August 2019: Dissolved oxygen (reported 0.5 mg/L, required 5.0 mg/L)
 - b. September 2019: pH concentration max (reported 8.9 SU, limit 8.0)
 - c. October 2019: pH concentration max (reported 9.23 SU, limit 8.0 SU); TSS quantity average (reported 7.42 kg/d, limit 4.5 kg/d); TSS weekly average quantity (reported 10.64 kg/d, limit 6.7 kg/d); and TSS concentration average (reported 37 mg/L, limit 30 mg/L)
 - d. November 2019: cBOD₅ weekly average quantity (reported 7.18 kg/d, limit 3.3 kg/d); pH concentration max (reported 9.01 SU, limit 8.0 SU); TSS concentration average (reported 31.5 mg/L, limit 30 mg/L); TSS quantity average (reported 5.24 kg/d, limit 4.5 kg/d); and TSS weekly average quantity (reported 17.4 mg/L, limit 6.7 mg/L)
 - e. December 2019: *E. coli* geometric mean (reported 167 n/100mL, limit 126 n/100mL)
6. GET Captive, LLC reported on December 12, 2019, that parameter exceedances were related to high alkalinity caused by algal concentration within the holding pond. This response also included a Permit renewal application.
7. In submitting its DMRs, as required by the Permit, GET Captive, LLC failed to report the following parameters as required by Part I.A.2 of the Permit, for the following months:
 - a. July 2019, August 2019, and September 2019: TSS quantity average.; TSS weekly average quantity; TSS concentration average; TSS concentration weekly average; Ammonia as N, concentration average; Ammonia as N, weekly average

- concentration; *E. coli*; cBOD₅ quantity average; cBOD₅, weekly average quantity; cBOD₅, concentration average; cBOD₅, average weekly concentration.
- b. October 2019: cBOD₅ quantity average; cBOD₅ weekly average quantity; cBOD₅ concentration average; cBOD₅ weekly average concentration.
 - c. December 2019: Flow quantity average; Flow quantity max; pH concentration minimum; pH concentration max; TSS quantity average; TSS weekly average quantity ; TSS concentration average; TSS weekly average concentration ; DO concentration minimum; Ammonia as N concentration average; Ammonia as N weekly average concentration cBOD₅ weekly average quantity ; cBOD₅ concentration average; cBOD₅ weekly average concentration .
8. DMRs for July, August, September, October, and November 2019 reported exceedances for plant-designed flow (0.0395 MGD). A 30-day written notice was due to DEQ-NRO by November 1, 2019, and was not received until February 7, 2020. An action plan was due by January 1, 2020, and was not received until February 7, 2020.
- a. Permit Part I.C.1 states, “A written notice and plan of action for ensuring continued compliance with the terms of this permit shall be submitted to the DEQ-NRO when the monthly average flow influent to the sewage treatment plant reaches 95% of the design capacity authorized in this permit for each month of any three consecutive month period. The written notice shall be submitted within 30 days and the plan of action shall be received at the DEQ-NRO no later than 90 days from the third consecutive month for which the flow reached 95% of the design capacity.”
9. GET Captive, LLC indicated to DEQ that the failure to report parameters and exceedance of plant-designed flow was due to operational errors.
10. On December 12, 2019, GET Captive, LLC reported that it intended to redevelop the site to a mixed use housing/office complex during the 2020-2025 permit cycle; this would include the closure of the Zion Crossroads STP and connection of existing and new wastewater discharges to the Louisa County Water Authority’s sanitary sewer. A proffer letter, dated January 2, 2020, from Louisa County Community Development indicated the same.
11. On January 16, 2020, DEQ water compliance staff conducted an inspection of the Facility and noted the following compliance deficiencies:
- a. Facilities and systems of treatment and control were not operated and maintained properly, including: grease floating on the primary lagoon surface and along the banks; automatic function for the blowers was not operational; the secondary wet well pump station and groundwater underdrain system alarms were not operational; the Lemna curtains in the primary lagoon required maintenance; the sample collection bucket was damaged; the UV intensity meter was flashing 0.2 mWs/cm²; solids were observed in the pre and post UV trough; there were no UV protection glasses available for staff; there were insect nests throughout the UV

disinfection shed; there was restricted access to the UV unit; there was restricted access to the outfall; wood boards on the catwalk to the secondary lagoon wet well pump station were deteriorating.

- i. Part II.Q of the Permit states in part that, "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit."
- b. Estimated flow rates appeared to have been calculated incorrectly for the months of August 2019 through November 2019.
 - i. Part II.A.1 of the Permit states that, "Samples and measurements required by this permit shall be taken at the designated or approved location and be representative of the monitored activity."
- c. The operator discharged from the treatment system on October 18, 2019, and November 9, 2019, even though pH levels in the pre-aeration/nitrification tank (a process-control test) was above permit limits. No notification was provided to DEQ regarding the unusual discharge.
 - i. Part II.H and Part II.I of the Permit requires verbal notification to DEQ within 24 hours of unusual discharges including bypasses, and submission of a written report within five days.
- d. Discharges occurred on September 9, 2019, and November 7, 2019, though pH, DO, and flow were not monitored. On November 24, 2019, a discharge from the STP occurred and DO was not monitored.
 - i. Part I.A.2 of the Permit requires GET Captive, LLC to conduct monitoring of discharges from the Plant's outfall for the presence of pollutants of concern, as specified in the Permit.
- e. No discharge was reported for December 2019, however operations staff collected a sample of *E. coli* on December 1, 2019, measuring 167 n/100mL; this was not reported through a DMR, nor were any other parameters.
 - i. Part II.C of the Permit requires GET Captive, LLC to submit the results of the monitoring required by this permit on a DMR not later than the 10th day of the month after monitoring takes place.

12. NRO issued Warning Letters and Notices of Violation for the violations as follows:

- a. WL No. W2019-09-N-1011, issued September 30, 2019;
- b. WL No. W2019-10-N-1040, issued October 24, 2019;
- c. WL No. W2019-11-N-1012, issued November 22, 2019;

- d. NOV No. W2019-12-N-0004, issued January 3, 2020;
 - e. NOV No. W2020-01-N-0003, issued January 26, 2020;
 - f. NOV No. W2020-02-N-0013, issued March 3, 2020.
13. GET Captive, LLC responded to the Warning Letters and Notice of Violation by submitting a plan of corrective action to address the parameter exceedances on December 12, 2019, and a planned schedule for the closure of the plant on February 7, 2020. GET Captive, LLC did not provide an elaborated written response to the January 16, 2020, inspection deficiencies in its February 7, 2020 response.
 14. On February 10, 2020, Department staff met with representatives of GET Captive, LLC to discuss the violations, including GET Captive, LLC's written response.
 15. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."
 16. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
 17. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.
 18. The Department has issued no permits or certificates to GET Captive, LLC other than VPDES Permit No. VA0088706.
 19. The unnamed tributary of Central Branch is a surface water located wholly within the Commonwealth and is a "state water" under State Water Control Law.
 20. Based on the results of the January 16, 2020, inspection, the February 10, 2020 meeting, and the documentation submitted to DEQ-NRO by GET Captive, LLC, the Board concludes that GET Captive, LLC has violated the Permit and Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging treated sewage and municipal wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraphs C(1) through C(19), above.
 21. In order for GET Captive, LLC to return to compliance, DEQ staff and representatives of GET Captive, LLC have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders GET Captive, LLC, and GET Captive, LLC agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$15,435 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

GET Captive, LLC shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, GET Captive, LLC shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of GET Captive, LLC for good cause shown by GET Captive, LLC, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, GET Captive, LLC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. GET Captive, LLC consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. GET Captive, LLC declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be

construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by GET Captive, LLC to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. GET Captive, LLC shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. GET Captive, LLC shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. GET Captive, LLC shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and GET Captive, LLC. Nevertheless, GET Captive, LLC agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after GET Captive, LLC has completed all of the requirements of the Order;
- b. GET Captive, LLC petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to GET Captive, LLC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve GET Captive, LLC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by GET Captive, LLC and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of GET Captive, LLC certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind GET Captive, LLC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of GET Captive, LLC.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, GET Captive, LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 18th day of September, 2020.



Thomas A. Faha, Regional Director
Department of Environmental Quality

Consent Order
GET Captive, LLC; VPDES Permit No. VA0088706
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GET Captive, LLC voluntarily agrees to the issuance of this Order.

Date: 7/24/2020 By: Gordon Sutton, President
(Person) (Title)
GET Captive, LLC

Commonwealth of Virginia
City/County of Charlottesville

The foregoing document was signed and acknowledged before me this 24th day of July, 2020, by Gordon Sutton who is
of GET Captive, LLC, on behalf of the company.

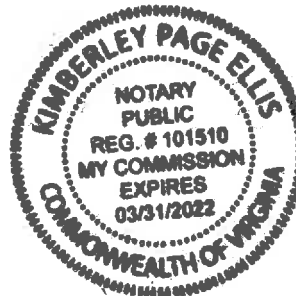
Kimberley Page Ellis
Notary Public

101510

Registration No.

My commission expires: 3-31-22

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Corrective actions from the January 16, 2020, inspection report

- a. Within 7 days of the execution of this Order, GET Captive, LLC shall submit a report on corrective actions taken, or planned, to address the deficiencies that were listed in the January 29, 2020 inspection report and noted below.
 - i) Grease was floating on the primary lagoon surface and along the lagoon banks; the automatic function for the blowers was not operational; the secondary lagoon wet well pump station and groundwater underdrain system alarms were not operational; the Lemna curtains in the primary lagoon require maintenance; the sample collection bucket was damaged; the UV intensity meter was flashing 0.2 mWs/cm²; solids were observed in the pre and post UV trough; there were no UV glasses available for operation staff; there were wasp nests and mud dobbers throughout the UV disinfection shed; there was restricted access to the UV unit; access to the outfall was restricted; the wood boards on the catwalk leading to the secondary lagoon wet well pump station were deteriorating.
 - ii) Estimated flow rates were incorrectly calculated.
 - iii) DEQ has requested, and not received, a copy of the O&M Manual, and the 2018 and 2019 sludge depth measurements from the primary and secondary lagoons.
 - iv) Discharges from the treatment system on October 18 and November 9, 2019, despite pH values in the pre-aeration/nitrification tank showing levels above permit limits.

Corrective actions shall be completed within 60 days of the execution of this Order.

- b. GET Captive, LLC shall respond to DEQ requests for information or documentation to demonstrate compliance with the Permit within seven days of the request.

2. DEQ Contact

Unless otherwise specified in this Order, GET Captive, LLC shall submit all requirements of Appendix A of this Order to:

**Virginia Department of Environmental Quality
Northern Regional Office
Attn: Enforcement
13901 Crown Court
Woodbridge, VA 22193**